



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
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MILLINGTON TN 38055-0000

5720
PERS 00J6/20180099
January 8, 2018

Ms. Elizabeth Principi
principilaw@aol.com

Dear Ms. Principi:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT (FOIA) REQUEST

This is in further response to your Freedom of Information Act (FOIA) request of November 18, 2017. You seek a copy of record information pertaining to Navy 0-6 JAG Promotion Boards for 1990-1992. Your request has been assigned FOIA correspondence file number CNPC20180099 by this command.

Your request was re-assigned to the Office of the Judge Advocate General's Administrative Law Division (Code 13) as they have cognizance over the applicable boards' Records of Proceedings. Code 13 advised our command on December 27, 2017 that the applicable Records of Proceedings do not contain a membership matrix, release process for board results, board statistics, and phasing plan. Code 13 has asked us to respond regarding these portions of your request. The Distribution Division (PERS-4), Promotions Branch (PERS-80), and the Deputy Chief of Naval Operations for Manpower, Personnel, Training, and Readiness (N131) were unable to locate documents responsive to your request with the exception of documentation pertaining to the release process for board results. Enclosed is a copy of SECNAV Instruction 1420.1A which is responsive to this portion of your request.

If you believe an adequate search of this command's records was not conducted, you have the right to appeal this partial "No Records" determination, in writing, to the Office of the Judge Advocate General, OJAG Code 14, 1322 Patterson Avenue SE Suite 3000, Washington Navy Yard, DC 20374-5066.

Should you believe the submission of an appeal necessary, it must be received by OJAG Code 14 within 90 calendar days from the date of this letter in order to be considered. Please attach a copy of this letter and the original request. Include a statement regarding why you believe this command may possess additional records responsive to your request. Please mark both the envelope and your appeal letter "FOIA/PA APPEAL."

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If necessary, you may contact the undersigned at (901) 874-3165. You may also contact the DON FOIA Public Liaison, Christopher Julka, at Christopher.a.julka@navy.mil, (703) 697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to: <https://www.archives.gov/ogis/about-ogis/contact-information>.

Sincerely,

A handwritten signature in black ink, appearing to read "D. P. German", with a stylized flourish at the end.

D. P. GERMAN
FOIA/PA Officer
By direction

DEPARTMENT OF THE NAVY
Office of the Secretary
Washington, DC 20350-1000

SECNAVINST 1420.1A
NMPC-22
8 January 1991

SECNAV INSTRUCTION 1420.1A

From: Secretary of the Navy
To: All Ships and Stations

Subj: PROMOTION AND SELECTIVE
EARLY RETIREMENT OF COMMIS-
SIONED OFFICERS ON THE
ACTIVE-DUTY LISTS OF THE NAVY
AND MARINE CORPS

- Ref: (a) Title 10 United States Code
(NOTAL)
(b) DoD Directive 1320.12 of 3 Jun 87
(NOTAL)
(c) DoD Directive 1320.7 of 27 Jul 81
(NOTAL)
(d) SECNAVINST 1427.2A
(e) SECNAVINST 1400.1A
(f) SECNAVINST 1920.7
(g) SECNAVINST 1401.3
(h) SECNAVINST 1920.6A
(i) SECNAVINST 1900.7F

1. Purpose. To revise policy and procedures for permanent promotion and selective early retirement of commissioned officers 0-2 and above, except limited duty officers on the active-duty lists of the Navy and Marine Corps in compliance with references (a), (b), and (c). This instruction is a complete revision and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 1420.1.

3. Applicability

a. This instruction applies to all commissioned officers, 0-2 and above, except limited duty officers on the active-duty lists of the Navy and Marine Corps, as defined by sections 620 and 641 of reference (a) and implemented in reference (d).

b. SECNAVINST 1412.6J governs promotion of officers on the active-duty lists of

the Navy or Marine Corps in the grade of ensign or second lieutenant.

c. SECNAVINST 1412.8 (NOTAL) governs the promotion of limited duty officers on active duty in the Navy and chief warrant officers on active duty in the Navy.

d. SECNAVINST 1412.9A (NOTAL) governs the promotion and continuation of limited duty officers and warrant officers in the Regular Marine Corps and warrant officers in the Marine Corps Reserve.

e. SECNAVINST 1421.3G (NOTAL) governs temporary (SPOT) promotion of officers in the Navy to lieutenant commander.

4. Policy. Department of the Navy (DON) policy is to meet skill and experience requirements for officers in each grade and competitive category established in reference (e), by using a system of competitive selection boards.

a. The promotion system is based on five-year plans designed to meet the following objectives:

(1) Select numbers of officers to fill projected vacancies to meet authorized strength in each competitive category and grade for the first fiscal year of the plan.

(2) Ensure reasonable career opportunities in each competitive category.

(3) Attain and maintain an all Regular Force on the active-duty list in the grades of 0-4 and above.

(4) Maintain programmed requirements by grade in each competitive category over the latter 4 fiscal years of the plan while maintaining relatively similar career opportunities.



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b. Boards of experienced officers will provide a collective judgment and opinion on the quality of officers eligible for promotion. Promotion boards will be administered to ensure careful consideration of all eligible officers.

5. **Annual Promotion Plan.** The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) shall submit to the Secretary of the Navy (SECNAV), via the Judge Advocate General (JAG), annually, a five-year promotion plan. The plan must be submitted 45 days before the proposed convening date of the first promotion board of the fiscal year promotion cycle.

a. The plan will provide an estimate of the number of officers needed in each grade and competitive category to attain authorized strength; the number of officers estimated to be serving in each competitive category for each grade; the number of officers authorized to be on active duty on the last day of each fiscal year for each grade, including the controlled grades as established in section 523 of reference (a); and a recommended promotion opportunity and projected flow point for each grade and competitive category. The proposed plan will also show the number of officers to be placed in the promotion zone for each grade in each competitive category; the number of officers to be selected for each grade and competitive category to attain the proposed promotion opportunity, and any proposed below zone opportunity.

b. The plan will provide rationale, and analysis as necessary, to support proposed deviations from the flow points and opportunity guidelines in paragraph 11 or proposed below-zone opportunity exceeding 10 percent for grades 0-4 and above. Plans proposing below zone opportunity greater than 10 percent shall be accompanied by a request for the Secretary of Defense (SECDEF) approval of such opportunity. By law, plans may not propose below zone opportunity greater than 15 percent.

c. The plan should identify any expected need for selective continuation of officers under

reference (f) or selective early retirement under paragraph 24, to aid in meeting strength, opportunity, or promotion flow points. Selective early retirement and selective continuation plans will be submitted as soon after the annual plan as feasible.

6. Eligibility for Consideration for Promotion

a. Commissioned officers who are on the active-duty list of the Navy or Marine Corps and who meet prescribed service-in-grade requirements are eligible for consideration by active duty promotion selection boards, except as provided in paragraphs 6b, 6d, 7, 10c, 18b, and 19d.

b. As provided in section 619 of reference (a), active-duty list promotion selection boards may not consider an officer whose name is on a promotion list for the next higher grade.

c. Officers who enter on active duty and are on the active-duty list on the date the board convenes will be eligible for consideration for promotion under this instruction unless eligibility is deferred under paragraph 7.

d. Officers placed on the active-duty list after the date a board convenes are not eligible for consideration by that board.

e. In the Judge Advocate General's Corps and Chaplain Corps, normal promotion flow for newly appointed officers is impeded when officers who are granted sufficient entry grade credit to provide for initial appointment in the grade of lieutenant (junior grade) and are eligible for consideration, commence active duty after the annual lieutenant selection board convenes. To avoid this impediment, annual promotion plans will provide for two lieutenant selection boards for the Judge Advocate General's Corps and Chaplain Corps each year.

7. **Deferred Eligibility.** Deferment of eligibility is intended to provide officers who otherwise would have been in zone or above zone an opportunity to obtain active-duty experience,

qualifications, and significant evaluation before being considered by a promotion board. Officers whose promotion eligibility is deferred will be considered as officers in, above, or below the promotion zone, as appropriate, as if their eligibility had not been deferred. Eligibility will be deferred as follows:

a. **Marine Corps Officers.** The CMC may, with the officer's consent or at his or her request, at any time prior to the convening of the first selection board to consider his or her records, defer the officer's eligibility for consideration in zone or above zone for promotion up to one year from the date the officer entered on active duty and was subject to placement on the active-duty list. An officer's written request for deferment must be submitted to the Commandant of the Marine Corps, Headquarters United States Marine Corps, (MMPR-1), Washington DC 20380-0001. Requests must arrive no later than the convening of the selection board before which the officer would normally be eligible.

b. **Navy Officers.** Except for appointees in the Judge Advocate General's Corps and Chaplain Corps, appointees whose placement on the active-duty list would make them eligible for consideration by a promotion board within one year of entering on active duty and being subject to placement on the active-duty list, shall be informed that their eligibility for consideration for promotion will be deferred unless they specifically request consideration. The appointee may waive this deferment and request consideration for promotion, in writing, to Commander, Naval Military Personnel Command (COMNAVMILPERSCOM) (NMPC-22), Navy Department, Washington DC 20370-5220. The request must be received by NMPC-22 no later than the convening of the board. The Chief of Naval Personnel (CHNAVPERS) shall normally place such officers' records before the promotion board.

c. **Judge Advocate General's Corps and Chaplain Corps Officers.** Deferred eligibility is not automatic for Judge Advocate General's Corps and Chaplain Corps officers eligible for

lieutenant boards under paragraph 6e. These officers may, however, request deferment before the first regularly scheduled promotion board which would normally consider them. The officers may request deferment, in writing, to COMNAVMILPERSCOM (NMPC-22), Navy Department, Washington DC 20370-5220, to arrive no later than the convening of the board before which deferment is requested. The CHNAVPERS shall normally defer eligibility of officers who request it under this paragraph.

d. **Reinstatement.** An eligibility deferral, waived under paragraph 7a or 7b, will not be reinstated.

8. **Service-in-Grade.** In the annual promotion plan, SECNAV will prescribe, under section 619 of reference (a), service-in-grade requirements for eligibility for consideration by promotion boards in each grade and competitive category.

9. **Promotion Zones.** In the annual promotion plan, SECNAV will establish promotion zones for each grade and competitive category. The limits of each zone will be indicated by the name, active-duty list precedence number and date of rank of the designated junior and senior officer in zone. Below-zone eligibility, if prescribed, will be indicated by the name, active-duty list precedence number and date of rank of the designated junior officer eligible for consideration in each competitive category. Officers in the same grade who are eligible for consideration for promotion to the next higher grade will be considered as officers either above zone, above zone not previously considered, in zone, or below the promotion zone for their competitive category as defined below:

a. **Above Zone.** Officers within a particular grade and competitive category who are eligible for promotion and are senior to the senior officer in the promotion zone.

b. **Above Zone, Not Previously Considered.** Officers in a grade below 0-6 senior to the senior officer in zone for their competitive category, but who have neither been

removed from a promotion list to that grade; nor failed of selection to the next higher grade by an active-duty board, are considered as officers in the promotion zone, and are referred to as above zone, not previously considered.

c. **In Zone.** Officers within a particular grade and competitive category who:

(1) Are senior to the officer designated as the junior officer in the promotion zone, and

(2) Have neither:

(a) Failed of selection (grades below 0-6) or not been recommended for promotion (grades 0-6 and 0-7); nor

(b) Been removed from a promotion list to that grade.

d. **Below Zone.** Officers within a particular grade and competitive category who are eligible for promotion and are junior to the junior officer in the promotion zone.

10. Limitations on Eligibility. In the annual promotion plan SECNAV may prescribe the following limitations on eligibility for promotion in a competitive category. The CNO and CMC will make recommendations in proposed promotion plans for exercising the following limitations:

a. Limit the number of officers to be considered by a promotion board from below the promotion zone to those officers determined to be exceptionally well qualified for promotion. When this authority is exercised, SECNAV will

prescribe in the annual promotion plan and in each promotion board precept, as applicable, the criteria for determining which officers from below the promotion zone are exceptionally well qualified for purposes of promotion.

b. Limit the officers considered for promotion to the grade of 0-7 to those officers determined to be exceptionally well qualified for promotion. When this authority is exercised, SECNAV will prescribe in the annual promotion plan and in each promotion board precept, as applicable, the criteria for determining which officers in the grade of 0-6 are exceptionally well qualified for promotion.

c. Exclude from consideration for promotion those officers whose established separation date is within 90 days after the convening date of a promotion board for which they would have otherwise been eligible. Modifications to established separation dates made on or after the date the board convenes will not change the eligibility status of such officers for consideration by the board.

11. Promotion Flow Point and Opportunity. Promotion zones will be established to meet the separate promotion requirements of each competitive category. This may result in different promotion flow points and opportunity among the competitive categories. Within a competitive category, promotion zones will be designed to provide relatively similar promotion opportunity over a period of five years.

a. Per reference (b), the following guidelines will normally be applied to promotion plans for each competitive category:

Promotion To Grade	Flow Point*	Variance	Opportunity	Variance
04	10 years	+ -1 year	80 percent	+ -10%
05	16 years	+ -1 year	70 percent	+ -10%
06	22 years	+ -1 year	50 percent	+ -10%

* Years of active commissioned service plus all entry grade credit.

b. Per reference (c), promotion flow point for the Medical Corps and Dental Corps will normally be six years service in grade based on date of rank.

c. Promotion flow point and opportunity for any competitive category may be temporarily set outside these guidelines when necessary to attain or to maintain the authorized grade strength. Proposals to deviate from the guidelines prescribed in paragraph 11a must provide supporting rationale and estimated time frame within which compliance with the guidelines will become possible. When deviations from the guidelines in paragraph 11b are needed to attain and maintain the authorized grade strength for the Medical Corps or Dental Corps, the CNO will provide a request for Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) submission to Assistant Secretary of Defense (Health Affairs) (ASD (HA)) and Assistant Secretary of Defense (Force Management and Personnel) (ASD (FM&P)) including supporting analysis.

12. Promotion Boards

a. **Precept.** Promotion boards shall be convened by precept addressed to the president of the board and signed by SECNAV. The precept will include instructions governing the proceedings of the board and will appoint the president and members of the board. The board shall adhere to the instructions in the precept. The president of the board also will serve as a member of the board.

b. **Skill Guidance.** The precept will provide SECNAV guidance relating to the needs of the Navy or Marine Corps for officers with particular skills in each competitive category, and other information and guidelines as necessary to enable the board to perform its functions properly.

c. **Notice of Convening.** SECNAV will issue a notice of the convening of a promotion selection board at least 30 days before the board is convened. The notice will include: (1) the names, active-duty list precedence numbers and

dates of rank, of the junior and senior officers in the promotion zone as of the date of notification; (2) the name, active-duty list precedence number and date of rank of the junior officer eligible as of the date of notification, if applicable; and (3) the date the board will convene. The notice will also inform eligible officers of their right to communicate with the selection board and of their responsibility to ensure their personnel records are substantially accurate and complete.

d. **Membership.** The membership of promotion boards shall be determined under section 612 of reference (a) as implemented in reference (g). The following subparagraphs, from paragraphs H1 and H2 of reference (b), govern membership conduct of board proceedings. CNO and CMC shall supply a copy of these two subparagraphs to each selection board member.

(1) **Board President.** The senior member of a selection board may be appointed president of the board and may perform such administrative duties in connection with the board proceedings as the SECNAV may prescribe. A board president has no authority to determine any matter that would constrain the board from recommending for promotion those officers best qualified to meet the needs of the service concerned as specified by SECNAV.

(2) **Participation of Board Members.** Any board member who believes that he or she cannot in good conscience perform his or her duties as a member of the board without prejudice or partiality has a duty to request relief by SECNAV from such duty. Such a request will be honored. Any board member who believes the integrity of the board's proceedings has been adversely affected by improper influence of superior military or civilian authority, misconduct of the board president or a member, or any other reason, has a duty to request relief from his or her obligation of nondisclosure from the Secretary or from the Secretary of Defense, and upon receiving it, to report the basis for his or her belief to that authority.

e. **Board Support.** CNO and CMC shall provide recorders to each selection board to keep the official record of the proceedings, projectionists to perform record presentation for the board and administrative support as required.

f. **Oath.** Each member of the selection board shall swear or affirm that he or she will perform his or her duties as a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of his or her service. Each recorder and assistant recorder shall swear or affirm that he or she will keep a true record of the proceedings of the board. Each member, recorder, assistant recorder, projectionist and support personnel shall swear or affirm that he or she will not disclose the proceedings or recommendations of the board except as authorized or required by SECNAV or higher authority.

g. **Information to be Furnished to Promotion Boards.** No person may direct that a particular officer be selected by a selection board or that a selection board fail to select a particular individual. Except as provided for in this paragraph, all information and guidance to promotion selection boards shall be provided by SECNAV and shall be in writing and made a part of the board record. The written instructions and guidance to a board will not include information regarding a particular officer, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (e.g., sensitive classified mission, etc.). An audio or video recording is an acceptable means of communication with the board, so long as a written transcript is made a part of the board record. The following information shall be furnished to each promotion selection board at the time it is convened:

(1) Marine Corps precepts will specify the maximum number of officers in each grade

and competitive category that the board may recommend for promotion.

(2) Navy precepts will specify the percentage of officers the board may recommend from the list of eligible officers. The CHNAVPERS will provide the maximum number of officers that may be recommended after the board convenes and a final number of eligible officers is determined as of the date the board convenes.

(3) The maximum number or percentage of officers in the promotion zone authorized to be promoted within a competitive category may not be increased after the convening of a selection board without written approval of SECDEF.

(4) CHNAVPERS or CMC, acting for SECNAV, shall provide the names of all officers in each competitive category who are to be considered by the board based on the criteria specified in the annual promotion plan as of the date the board convenes.

(5) CHNAVPERS or CMC shall supply all pertinent records of each officer to be considered by the board. Such records shall include all documents, including fitness reports, that are essential for a fair and substantially accurate and complete portrayal of each officer's career as of the date the board convenes. Fitness reports, personal awards or other documents with ending dates after the convening date of the board will not be added to these records even if received while the board is in session. If the board requests information to amplify or clarify official records provided to the board, the board may request such information from SECNAV, via CNO or CMC, as appropriate. Information from outside an officer's official record may not be provided to a board if that information, under Service regulations, could not otherwise be included in the officer's official record without notice to the officer and an opportunity for the officer to comment on it.

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(6) Only SECNAV may provide additional guidance to promotion selection boards. The written instructions, information, or guidance furnished to a selection board may not be modified, withdrawn, or supplemented after the board submits its report to SECNAV, under section 617 of reference (a); except as provided in paragraph 14e.

h. **Submission of Precepts.** CHNAVPERS and CMC will submit, not later than 10 days before the proposed convening date, a precept for each selection board to SECNAV, via JAG.

13. **Communication with Promotion Boards.** Officers eligible for consideration by a promotion board may communicate directly in writing with the board. The communication may call attention to any matter concerning the officer that the officer considers important. It may include, as attachments, correspondence from any other individual.

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a. Correspondence not originated or endorsed by the eligible officer, including endorsements, or other letters written on behalf of that officer and forwarded under separate cover, is not acceptable and will be returned. Correspondence that contains classified information will not be accepted.

b. Officers who desire to communicate with a promotion board shall forward written communication to the appropriate board via COMNAVMILPERSCOM (NMPC-22) or CMC (MMPR-1) as appropriate, to arrive no later than the convening date of the selection board which is to consider his or her record. Correspondence received after a board is convened will be returned.

c. The selection board shall consider all correspondence which complies with the above requirements.

d. Except as provided by this paragraph, no person may furnish unsolicited information or opinion regarding officers to be considered by a selection board.

14. **Reports of Proceedings of Promotion Boards.** Each promotion board shall submit a report to SECNAV listing the names of the officers recommended for promotion.

a. The report shall be in writing, signed by each board member and the recorder, and shall certify that the board has complied with all instructions contained in the precept. The report shall also certify that the board has carefully considered the record of each officer whose name was furnished to it, and that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are fully qualified and the best qualified for promotion to meet the needs of the Navy or Marine Corps from among the officers whose names were furnished to the board.

b. Each report shall include the name of any officer considered by the board whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for his or her retention on active duty under reference (h), because of substandard performance of duty, misconduct, moral or professional dereliction, or because retention is not clearly consistent with the interests of national security.

c. The report shall be forwarded for approval by the SECDEF via first, CHNAVPERS (Navy boards); second CNO or CMC, as appropriate; third, the Judge Advocate General of the Navy (JAG) for legal review; and fourth, SECNAV. In addition, the report of a selection board that considered officers with service in joint duty assignments will be forwarded to the Chairman of the Joint Chiefs of Staff (CJCS) for review under section 618 (b) of reference (a).

d. Except as authorized or required by law, the proceedings of a selection board may not be disclosed to any person not a member of the board.

e. If SECNAV determines that the board acted contrary to law, regulation or guidelines, the report will be returned to the board for further proceedings. The Secretary may modify,

withdraw, or supplement instructions, information, or guidelines, as part of a written explanation to the board. Upon receipt of a report that has been returned by SECNAV, the board (or a subsequent board convened under this instruction for the same grade and competitive category) shall conduct proceedings as necessary to revise the report and shall resubmit the revised report to SECNAV, via first, CHNAVPERS (Navy boards); second, CNO or CMC as appropriate; third, JAG for legal review, and fourth, CJCS if necessary.

f. In routing the report of a board that considered officers for promotion to grades 0-4 through 0-8, SECNAV will submit to SECDEF a memorandum for the President forwarding to the Senate, nomination lists of the names of the officers approved for promotion. CNO or CMC, as appropriate, shall prepare that memorandum.

g. When the approved report of a selection board identifies officers who should be required to show cause for retention on active duty under subparagraph 14b, and when directed by SECNAV, CHNAVPERS or CMC will initiate a Board of Inquiry required by reference (a) on all such officers.

h. SECNAV may recommend to SECDEF that the board report be approved or disapproved. SECDEF may approve or disapprove the report but may not remove the name of any officer recommended for promotion. Only the President may remove the name of an officer recommended for promotion from the report of a selection board.

15. Promotion List. When a selection board report is approved by or on behalf of the President by SECDEF, CHNAVPERS, or CMC as appropriate shall place the names of all officers approved for promotion within a competitive category on a single list in order of seniority for that competitive category. This list will be known as a promotion list.

16. Dissemination of Names. Upon the President's formal nomination to the Senate for confirmation of officers selected for promotion to flag and general rank, the names of those officers shall be officially disseminated. Upon SECDEF's approval of a promotion board report, the names of the officers on the promotion list to 0-6 and below will be disseminated officially within the Department of the Navy. Dissemination will be by ALNAV message. CNO and CMC, as applicable, shall submit the proposed message.

a. CNO or CMC may propose to withhold from the ALNAV the names of officers in the following categories:

(1) Officers against whom sworn court-martial charges have been preferred, but not disposed of; or

(2) Officers with a criminal proceeding in a Federal, State or local court pending; or

(3) Officers against whom an investigation is being conducted to determine whether disciplinary/administrative action of any kind should be initiated.

b. The name of any officer, other than those whose promotions the Senate failed to confirm, that was withheld from an ALNAV under subparagraph 16a must be promptly disseminated within the Department of the Navy upon Senate confirmation.

17. Removal from Promotion List

a. SECNAV may remove the name of any officer from a promotion list to any grade below 0-7. CHNAVPERS or CMC, as appropriate, may submit requests for such action to SECNAV. In the case of officers on a promotion list for the grades 0-7 and above, CHNAVPERS or CMC, as appropriate, shall provide a request for removal action to the President via SECDEF to SECNAV for signature.

b. If, after consideration of a list of officers approved for promotion by SECDEF, the Senate does not give its advice and consent to the appointment of an officer whose name is on the list, that officer's name shall be removed from the promotion list.

c. If an officer's name is removed from the promotion list by Secretarial action, CNO or CMC, as appropriate, shall notify that officer in writing of his or her removal from the promotion list and the resulting effect on promotion status under paragraphs 18 and 19.

18. Eligibility of Officers Removed from Promotion List

a. An officer whose name is removed from a promotion list continues to be eligible for consideration for promotion. If an officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, SECNAV may, upon such promotion, grant the officer the same date of rank, the same effective date for pay and allowances for the grade to which promoted, and the same position on the active-duty list as the officer would have had if the officer's name had not been removed from the first promotion list.

b. Except for limited duty officers, if a Regular officer or a Reserve officer whose name was removed from a promotion list to the grade of 0-3 is not recommended for promotion by the next selection board convened for the officer's grade and competitive category, or if the officer's name is again removed from the list of officers recommended for promotion to the grade of 0-3, the officer shall be ineligible for further consideration for promotion.

19. Failure of Selection for Promotion

a. Officers in grades below 0-6 who are in or above the promotion zone and are considered but not selected for promotion will be considered to have failed of selection for promotion to the next higher grade.

b. If an officer in a grade below 0-6 whose name was removed from a promotion list is not recommended for promotion by the next promotion board convened for the officer's grade and competitive category, or if the officer's name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to the officer's promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

c. Except as provided in subparagraph 19d, officers who fail of selection for promotion remain eligible for consideration by subsequent promotion boards so long as they remain on the active-duty list. Two or more failures of selection subjects an officer to involuntary separation or retirement under references (a) and (h).

d. Regular officers who are subject to discharge under subsection 631(a)(1) of reference (a) as implemented in reference (h) for having twice failed of selection for promotion to the grade of 0-3 and Reserve officers who have twice failed of selection to the grade of 0-3, are not eligible for further consideration for promotion.

e. Officers in or above the promotion zone who are selected for promotion to grade of 0-6 or below but decline the appointment shall be considered to be above zone for subsequent promotion selection boards. Per reference (i), they will not be considered to have failed of selection for promotion for purposes of entitlement to separation pay under section 1174 of reference (a).

20. Counseling for Officers Who Fail of Selection for Promotion. CHNAVPERS and CMC shall provide, upon request, counseling for officers who fail of selection for promotion to grades 0-3 to 0-6. Counseling shall consist of reviewing the officer's record and indicating any factors that may account for not having been selected.

a. The counselor will be an officer experienced in officer personnel matters who is senior to and, when practicable, in the same competitive category as the officer requesting counseling. The counselor may not be an officer who served as a member, recorder, projectionist or technical assistant for a promotion board which failed to select the requesting officer for promotion.

b. Requests for counseling should be submitted to COMNAVMILPERSCOM (NMPC-4) or Headquarters, Marine Corps (MMOA), as appropriate.

21. Promotion of Selectees. Officers on a promotion list will be appointed as Regular officers or Reserve officers, as appropriate, in the next higher grade as additional officers are needed in each grade and competitive category.

a. Promotions will be made in the order in which the names of officers appear on the promotion list for each competitive category as vacancies become available, except for those officers whose promotion have been delayed. Promotion of officers from one competitive category will be effected regardless of the relative seniority of officers of the same grade in other competitive categories.

b. CMC and CNO shall prescribe monthly numbers, by competitive category and grade, of officers to be promoted and shall announce the names of those officers promoted from the approved promotion list within the monthly numbers authorized.

c. Authority to prescribe monthly numbers and announce promotions may be delegated but not below the level of CHNAVPERS or Deputy Chief of Staff (Manpower and Reserve Affairs) (DC/S (M&RA)).

22. Effective Dates of Promotion. Except as provided in paragraph 23 or as otherwise provided by law, the date of rank of an officer promoted to a higher grade under section 624 of reference (a) and this instruction is the date of

appointment. Appointments will be considered accepted and effective on the date specified in the promotion ALNAV or ALMAR unless the officer concerned expressly declines the appointment within 60 days of the effective date.

23. Delay of Promotion

a. Criteria for Promotion Delay. CHNAVPERS or CMC, as appropriate, or a member's commanding officer, may delay the appointment of an officer selected for promotion. If the appointment is delayed, the delaying officer shall, as soon as practicable, forward the information required by paragraph 23b to SECNAV for ratification. Promotion may be delayed under this instruction if:

(1) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and such charges have not been disposed of.

(2) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

(3) Processing for separation for cause has been initiated under reference (h).

(4) A criminal proceeding in a Federal or state court is pending against the officer.

(5) There is cause to believe that the officer is mentally, physically, morally, or professionally unqualified.

b. Command Requests for Delay

(1) Commanding officers who consider delay of an officer's promotion warranted and delay an officer's promotion, shall submit justification for the delay to SECNAV via, CHNAVPERS (NMPC-82) (copy to COMNAVMILPERSCOM (NMPC-22)), or CMC (MMPR-1) as appropriate, within 10 days of knowledge of the circumstances warranting the delay, or as soon thereafter as practicable.

(2) Each justification for delay to SECNAV must include the following documents:

(a) A copy of the notification to the officer and;

(b) A statement by the officer. If the officer declines to make a statement, the officer concerned shall submit a signed statement to that effect;

(c) Supporting rationale for delay from the officer's commanding officer based on his or her knowledge of the officer involved; and

(d) A recommendation by CH-NAVPERS or DC/S (M&RA), as appropriate.

c. Notification of Grounds for Delay. The promotion of an officer may be delayed only if the officer has been given written notice of the grounds for the delay before the effective date of the appointment, unless it is impractical to do so, in which case such written notice shall be given as soon as practicable.

d. Limitations on Delay. The promotion of an officer may not be delayed under this paragraph for more than six months after the date on which the officer would otherwise have been promoted, unless SECNAV specifies a further period of delay. The CHNAVPERS or CMC will submit timely requests, with supporting rationale, for any extension of delay of promotion. An officer's promotion may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or state court, more than 90 days after final action has been taken in any court-martial against the officer, or more than 18 months after the date on which the officer would otherwise have been promoted, whichever is later.

e. Removal from the Promotion List. If during a delay of promotion, it is determined that removal from the promotion list is appropriate, removal action under paragraph 17a may be initiated. Although removal action is

contemplated, requests for delay extensions as provided in paragraph 23d shall be submitted to SECNAV as necessary until the officer's name is removed from the promotion list.

f. Subsequent Promotion.

(1) If a promotion has been delayed under paragraph 23a(1)-23a(4) and no action has been taken to delay an appointment under paragraph 23a(5); and

(a) no disciplinary action is taken against the officer, charges against the officer are withdrawn or dismissed,

(b) the officer is not ordered administratively separated under reference (h); or

(c) the officer is acquitted of the charges brought against him or her, the officer shall be retained on the promotion list and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted and the same position on the active-duty list as he or she would have had if no delay had occurred, except as provided below.

(2) If SECNAV determines that the officer was unqualified for promotion for any part of the delay, the date of rank, effective date of pay and allowances, and position on the active-duty list may be adjusted. Officers whose promotions were delayed under paragraph 23a(5) whom SECNAV later determines are qualified, shall be promoted in the same manner.

24. Selective Early Retirement. Regular officers on the active-duty lists in pay grades 0-5 through 0-8 may be selected for involuntary retirement prior to mandatory retirement dates determined under Section 633, 634, 635, or 636 of reference (a). SECNAV may convene a selective early retirement selection board, based on the recommendations and supporting rationale of CNO or CMC.

a. Uses of Selective Early Retirement. Early retirement will be used primarily during periods of officer strength reduction as a means to reduce the numbers of senior officers commensurate with reductions in other grades or to manage an officer grade imbalance or strength overage within a competitive category. It may not be used for the sole purpose of enhancing promotion opportunity; nor may it be used as a substitute for the disposition of commissioned officers who would otherwise be processed for administrative separation under reference (h).

b. Eligibility for Selective Early Retirement

(1) A Regular officer on the active-duty list in the Navy and Marine Corps may be considered for early retirement as follows:

(a) **Grade 0-5.** Officers who failed of selection for promotion to 0-6 two or more times whose names are not on a selection board report.

(b) **Grade 0-6.** Officers with four or more years of active service in grade whose names are not on a selection board report.

(c) **Grade 0-7.** Officers with three and one-half or more years of active service in grade whose names are not on a selection board report.

(d) **Grade 0-8.** Officers with three and one-half or more years of active service in grade.

(2) Not more than a fixed number or percentage, as prescribed by SECNAV, of the officers in each grade and competitive category who are considered for selective early retirement may be selected by the board. The number or percentage prescribed by SECNAV for each grade and competitive category may not exceed 30 percent of the total number of officers considered in the particular grade and competitive category.

(3) The list of officers provided to a board for consideration for selective early retirement shall include each officer on the active-duty list in the same grade and competitive category whose position on the active-duty list is between that of the most junior officer in that grade and competitive category whose name is provided and that of the most senior officer in that grade and competitive category whose name is provided to the board who meet the criteria of subparagraph 24b(1). Except, officers serving in permanent grades 0-5 and 0-6 may not be considered for selective early retirement more than once in any 5-year period while in the same grade.

c. Retirement Boards. A separate board will be convened by precept signed by SECNAV for each grade and competitive category designated for selective early retirement. Boards shall be composed and sworn in the same manner as promotion selection boards under paragraph 12. Promotion selection boards may be reconvened as selective early retirement boards.

d. Information to be Furnished to the Board

(1) SECNAV will furnish the following information to each board at the time it is convened:

(a) A list of names of officers to be considered for early retirement.

(b) Information on the skill needs and qualifications for the grade and competitive category.

(2) CHNAVPERS and the CMC shall provide the pertinent records of officers to be considered for early retirement.

e. Reports. Each board shall submit a written report to SECNAV listing the names of the officers recommended for retirement.

(1) The report of each selective early retirement board shall certify that the board has carefully considered the record of each officer whose name was furnished and that, based upon the identified needs of the service for officers serving in the grade and competitive category concerned, it is the opinion of a majority of the members that the early retirement of the officers whose names are listed in the selection board report is in the best interest of the Navy or Marine Corps, as appropriate.

(2) The report shall be forwarded for approval by SECNAV via first, CHNAVPERS (Navy boards); second, CNO or CMC; and third, JAG for legal review.

f. Retirement

(1) A Regular officer of the Navy or Marine Corps in the permanent grade 0-5 or 0-6 who is recommended for selective early retirement and whose early retirement is approved by SECNAV shall, on the date requested by the officer and approved by SECNAV, be retired under any provision of law under which the officer is eligible to retire. The retirement date of such officer shall not be later than the first day of the seventh calendar month beginning after the month in which SECNAV approved the report of the selective early retirement board.

(2) A Regular officer of the Navy or Marine Corps in the permanent grade of 0-7 or 0-8 who is recommended for early retirement and whose early retirement is approved by SECNAV shall, on the date requested by the officer and approved by SECNAV be retired under any provision of law under which the officer is eligible to retire. The retirement date of such officer shall not be later than the first day of the tenth calendar month beginning after the month in which SECNAV approved the report of the selective early retirement board.

(3) If the officer is not eligible for retirement under any provision of law, the officer shall be retained on active duty until he or she is

qualified for retirement under section 6323 of reference (a), and then be retired under that section, unless sooner discharged or retired under another provision of law.

(4) The early retirement of an officer under the provisions of this instruction is considered an involuntary retirement for purposes of any other provision of law.

25. Establishing Authorized Strength for Promotion Planning and Execution

a. CNO and CMC will submit to SECNAV annually a five-year officer promotion plan for each grade and competitive category as outlined in paragraph 5.

b. Proposed promotion plans are to be for the current and projected authorized strength requirements established under paragraph 25a. Promotion plans will be submitted not later than 45 days prior to the proposed convening date of the first applicable selection board.

c. The CNO and CMC shall submit any significant changes to the promotion plan in any grade or competitive category required by events occurring after the plan has been approved.

d. At the completion of a fiscal year's promotion cycle, CHNAVPERS and CMC will provide for submission to the Assistant Secretary of Defense (FM&P), the Defense Officer Promotion Report (DOPR) (Report Control Symbol DD-FM&P(A) (1621)) as prescribed in reference (b).

26. Responsibility

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) is responsible for management oversight of the Promotion and Selective Early Retirement systems.

b. The CNO and CMC are responsible for promotion and selective early retirement planning and execution to meet the policy objectives of this instruction.

SECNAVINST 1420.1A
8 January 1991

27. Reports. Board reports are exempt from reports control by SECNAVINST 5214.2B.

H. LAWRENCE GARRETT, III
Secretary of the Navy

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